IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

Bail Appl..No. 6704 of 2007()

CRIME NO.376/07 OF AROOR POLICE STATION

PETITIONER:

S. KUMAR,
FORMER CHAIRMAN OF THE BHARATHIYA MANAVIK VIJNAN COMMUNICATION LTD., SASTHAMANGALAM, THIRUVANANTHAPURAM.

BY ADV. SRI.K.DIVAKARAN NAIR

RESPONDENTS:

THE SUB INSPECTOR OF POLICE, AROOR, ALAPPUZHA DISTRICT (CRIME NO.376/07), REPRESENTED BY THE DIRECTOR OF PROSECUTION, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6704 OF 2007

Dated this the 5th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations for offences punishable under Secs.420 and 406 of the IPC. The crime was registered on the basis of a private complaint filed before the learned Magistrate which was referred by the learned Magistrate to the police under Section 156(3) of the Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. What is the allegation against the petitioner? What offence, if any, is alleged against him? The learned Public Prosecutor submits that in the complaint the only allegation is that amounts due as per an agreement between the parties had not been paid to the de facto complainant. The petitioner was then the Chairman of the Bharath T.V. He is now not the

Chairman of the Bharath T.V. Accused 2 and 3 are the present office bearers of the Bharath T.V. They have been subsequently brought on the array of the accused.

3. The learned counsel for the petitioner submits that at worst the allegations in the complaint taken as a whole can reveal only the alleged breach of a civil obligation. The complaint does not at all reveal any elements of the offence of cheating and breach of trust punishable under Secs.420 and 406 of the IPC. In these circumstances, the petitioner may be saved of the of trauma of undeserved arrest and vexation, prays counsel.

4. The learned Public Prosecutor submits fairly that the Investigators do not now want to arrest the petitioner. They have no objection in anticipatory bail being granted to the petitioner subject to appropriate terms and conditions. The petitioner may be directed to make himself available for examination/interrogation.

5. Having considered all the relevant inputs, I am satisfied that the petitioner is entitled for anticipatory bail. In the absence of opposition, it is not necessary for me to advert to the facts in any greater detail in this order. Suffice it say that I have gone through Annexure-IV on the basis of which the crime has

been registered.

6. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) If the petitioner were arrested on the allegation that he has committed any offence as alleged in the complaint, he shall be released on bail on his executing a bond for Rs.25,000/- without any sureties.

(ii) It shall be open to the Investigating Officer to summon him to appear for the purpose of examination under Sec.160 of the Cr.P.C.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge